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IN THE SUPREME COURT OF THE UNITED STATES
October Term, 1986

HARLLEL B. JONES,
Petitioner,

vs.

ROBERT SHANKLAND, et al.,
Respondents.

PETITION FOR A WRIT OF CERTIORARI
to the United States Court of Appeals
for the Sixth Circuit

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QUESTIONS PRESENTED FOR REVIEW

I. Whether the Circuit Court's decision is contrary **Wilson v. Garcia**, ___ U.S. ___, 105 S.Ct. 1938 (1985), and the majority of the Circuits interpreting **Wilson**?

II. Whether a claim for relief under 42 U.S.C. § 1983 which is in the nature of malicious prosecution accrues at the time a conditional writ of habeas corpus is granted; the end of the appellate process following the granting of a conditional writ of habeas corpus; the entering of a **nolle prosequi** in the original state trial court; or the issuance of an unconditional writ by the federal habeas corpus court?

III. In a 1983 action involving claims of unconstitutional conduct raised previously in a successful federal habeas corpus action, is a state tolling provision, allowing a one-year limitation period to run upon the district court's grant of bail in the habeas action, inconsistent with federal law and policy and thus properly displaced by a federal equitable rule tolling of the state limitation period until the federal habeas proceeding has terminated and the state decides against retrial or the writ is made unconditional by order of the district court?

LIST OF PARTIES

The Petitioner-Plaintiff in this case is Harllel B. Jones. The Respondent-Defendants are Robert Shankland; James Fuerst; William H. Greene, Jr.; William Kelley; and Robert E. Perry. Though Petitioner Jones believes that the decision of the Circuit Court below was incorrect in finding Appellee-Defendants John T. Corrigan, Robert E. Feighan, Cuyahoga County Prosecutor's Office and Cuyahoga County absolutely immune from suit, no review is sought of the judgment as it applies to them because the issues involved do not present questions of national importance meriting review by this Court.

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OPINIONS BELOW

The opinion of the United States Court of Appeals for the Sixth Circuit denying Rehearing **En Banc** is unpublished and is reproduced in the Appendix (hereinafter "A.") at A1. The panel decision of the Sixth Circuit is published at 800

F.2d 77 (6th Cir. 1986), and is reproduced at A3. The decision of the U. S. District Court for the Northern District of Ohio is unreported and reproduced at A29.

JURISDICTION

The Sixth Circuit panel decision was issued on September 2, 1986. The Sixth Circuit's decision denying the Petition for Rehearing **En Banc** was issued on October 20, 1986. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS

THE ONE-YEAR STATUTE OF LIMITATIONS:
Ohio Revised Code § 2305.11

"(A) An action for libel, slander, assault, battery, malicious prosecution, false imprisonment, including an action for malpractice . . . or upon a statute

for a penalty or forfeiture after the cause thereof accrued . . . ."

THE FOUR-YEAR STATUTE OF LIMITATIONS:
Ohio Revised Code, § 2305.09

"An action for any of the following causes shall be brought within four years after the cause thereof accrued: (A) For trespassing upon real property; (B) For the recovery of personal property, or for taking or detaining it; (C) For relief on the ground of fraud; (D) For an injury to the rights of the plaintiff not arising on contract nor enumerated in sections 2305.10 to 2305.12, inclusive, 2305.14 and 1304.29 of the Revised Code."

THE TWO-YEAR STATUTE OF LIMITATIONS:
Ohio Revised Code § 2305.10

"An action for bodily injury or injuring personal property shall be

brought within two years after the cause thereof arose."

THE OHIO TOLLING STATUTE:
Ohio Revised Code § 2305.16

"If a person entitled to bring any action . . . is at the time the cause of action accrues . . . imprisoned, such person may bring it within the respective times limited by such sections, after such disability is removed."

STATEMENT OF THE CASE

This case involves the dismissal of a civil damage suit filed by Harllel B. Jones against 11 named defendants on October 29, 1979. The District Court's jurisdiction was invoked pursuant to 28 U.S.C. §§ 1331 and 1343.

The claims for relief were founded upon damages Mr. Jones received as a victim of the illegal Counterintelligence Program (COINTELPRO) against Black Nationalists. One result of this unconstitutional action by the various defendants was that Petitioner Jones spent five and one-half years in prison prior to being released through a favorable habeas corpus action.

The case was assigned to Magistrate Perelman for general pre-trial supervision on June 3, 1981. The Magistrate issued a Report and Recommended Decision dated July 13, 1983, suggesting that the

entire suit should be dismissed upon the theory that the statute of limitations had run prior to the filing of the suit.

The dates relevant to this decision are as follows:

Oct. 12, 1971: Mr. Jones was arrested. He was held in continuous confinement until the District Court released him on bail in 1977.

Feb. 10, 1977: Order granting habeas corpus relief.

June 24, 1977: Mr. Jones was released on bail.

May 3, 1978: Sixth Circuit affirmed granting of the writ [575 F.2d 1164 (6th Cir. 1978)].

Oct. 2, 1978: Supreme Court denied certiorari [439 U.S. 1164 (1978)].

Oct. 16, 1978: Justice Stewart denied Respondent's motion to suspend order denying certiorari.

Oct. 27, 1978: The State prosecutor made an **ex parte** application to enter a **nolle prosequi** to the charges which were granted by the Court. The date shown is the date of receipt for journalization.

Feb. 12, 1979: The District Court declared the conditional writ unconditional and released Mr. Jones from the restrictions of bail.

Mar. 14, 1979: Last day for the State to appeal the granting of the unconditional writ and

release from bail restrictions.

Oct. 29, 1979: Present suit filed.

By an Order dated July 2, 1984, Chief Judge Battisti dismissed the claims against all the defendants.

An appeal was taken to the United States Court of Appeals for the Sixth Circuit. Issues were raised concerning the time the claims for relief accrued; the applicable statute of limitations; and the tolling of the statute of limitations.

While the appeal was pending, this Court issued its opinion in **Wilson v. Garcia**, 471 U.S. 261 (1985), and supplemental briefs were filed on the issues raised by that case.

By an order issued September 2, 1986, the panel affirmed the decision of the District Court, holding that under **Wilson v. Garcia**, 471 U.S. 261 (1985),

Ohio's one-year statute of limitations for intentional torts, R.C. § 2305.11, was applicable to all § 1983 actions in Ohio. By means of a Petition for Rehearing **En Banc**, Petitioner Jones sought further review of the question of the proper statute of limitations under the mandate of **Wilson** and of the question of when a federal claim under § 1983 accrues. The Circuit Court denied Rehearing **En Banc** and Rehearing on October 20, 1986. This matter is presently before the Court on Petition for Writ of Certiorari.

REASONS FOR ALLOWANCE OF THE WRIT

I.

The Sixth Circuit's panel decision conflicts with the decisions of other Circuits, one of its own cases, and this Court's decision in Wilson v. Garcia

In **Wilson v. Garcia**, 471 U.S. 261 (1985), this Court directed the Federal courts to "select, in each State, the one most appropriate statute of limitations for all Section 1983 claims." (Emphasis added.) In their efforts to follow the mandate of **Wilson**, the Circuit Courts have produced conflicting decisions. As noted by the D.C. Circuit:

> "There appears to be a growing split in the circuits as to whether general tort statutes of limitations or intentional tort limitations periods should apply in § 1983 cases . . ." **Banks v. Chesapeake and Potomac Telephone Co.**, 802 F.2d 1416, 1427 (D.C. Cir. 1986).

These conflicts have been documented by a number of dissents from denials of certiorari. **See Preuit & Mauldin v. Jones**,

___ U.S. ___, 106 S.Ct. 893 (1986) (White, J., dissenting); **Mulligan v. Hazard**, ___ U.S. ___, 106 S.Ct. 2902 (1986) (White and Marshall, JJ., dissenting); and **County of Wayne v. Carroll**, ___ U.S. ___, 107 S.Ct. 330 (1986) (White, J., dissenting).

Though the fact that the wording of the individual state statutes may be somewhat different, and may even contain different common-law torts, the characterization by the D. C. Circuit of a division between those courts choosing statutes of limitations applicable to intentional torts (defamation, assault and battery, false imprisonment, etc.) and those choosing statutes of limitations of a more general nature (bodily injury, personal injury, or residuary statutes) is apt.

Of most concern is the inter-Circuit conflict among the Circuits. The First,[1] Second,[2] Eighth,[3] Tenth,[4] and D.C.[5]

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[1] **Small v. The Inhabitants of the City of Belfast**, 796 F.2d 544 (1st Cir. 1986) (applying the Maine residuary statute of limitations).

[2] **See Villante v. Department of Corrections of City of New York**, 786 F.2d 516, 520, n.2 (2d Cir. 1986) (dicta rejecting the intentional tort statute and applying the residuary statute applicable to all other injuries to persons). **See also Lee v. Coughlin**, 643 F. Supp. 546 (W.D. N.Y. 1986) (following the dicta in **Villante**).

[3] **Farmer v. Cook**, 782 F.2d 780 (8th Cir. 1986) (applying Missouri residuary statute of limitations).

[4] **Mismash v. Murray City**, 730 F.2d 1366 (10th Cir. 1984) (en banc) (applying Utah's residuary statute of limitations), **cert. denied**, 471 U.S. 1052 (1985); **Hamilton v. City of Overland Park**, 730 F.2d 613 (10th Cir. 1984) (en banc) (applying Kansas residuary statute of limitations), **cert. denied**, 471 U.S. 1052 (1985); and **McKay v. Hammock**, 730 F.2d 1367 (10th Cir. 1984) (en banc) (applying Colorado's residuary statute of limitations).

[5] **Greenfield v. District of Columbia**, 623 F. Supp. 47 (D.D.C. 1985) (applying District of Columbia residuary statute of

Circuits have all applied the more general tort statutes of limitations. The Fifth[6] and the Eleventh[7] Circuits have applied the more limited statutes of limitations for intentional torts.

Of similar significance is where such a conflict exists, without acknowledgement or an effort at reconciliation, within the Circuit itself. **See County of Wayne v. Carroll**, ___ U.S. ___, 107 S.Ct. 330 (1986) (White, J., dissenting), recognizing a conflict within the Sixth

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limitations for torts). **See also Hobson v. Brennan**, 625 F. Supp. 459 (D.D.C. 1985) (applying residuary statute of limitations for torts to **Bivens** claims).

[6] **Gates v. Spinks**, 771 F.2d 916 (5th Cir. 1985) (applying Mississippi's statute of limitations for intentional torts), **reh. denied**, 775 F.2d 1168 (5th Cir. 1985), **cert. denied**, 106 S.Ct. 1378 (1986).

[7] **Jones v. Preuit & Mauldin**, 763 F.2d 1250 (11th Cir. 1985), **cert. denied**, ___ U.S. ___, 106 S.Ct. 893 (1986) (White, J., dissenting) (applying Alabama's six-year statute of limitations for intentional torts).

Circuit between its decisions in **Mulligan v. Hazard**, 777 F.2d 340 (6th Cir. 1985) (applying one-year intentional tort statute), **cert. denied**, ___ U.S. ___, 106 S.Ct. 2902 (1986), and **Carroll v. Wilkerson**, 782 F.2d 44 (6th Cir. 1986) (applying three-year catch-all statute for injury to person or property), **cert. denied sub. nom., County of Wayne v. Caroll**, ___ U.S. ___, 107 S.Ct. 330 (1986). **Also compare Shorters v. City of Chicago**, 617 F. Supp. 661 (N.D. Ill. 1985) (applying five-year residuary statute of limitations) with **Anton v. Lehpamer**, 787 F.2d 1141 (7th Cir. 1986).

Since the instant case followed, under the doctrine of **stare decisis** (800 F.2d at 80; A13) the decision of the panel decision in **Mulligan**, it is part of the intra-Circuit conflict within the Sixth Circuit.

Thus, there are both inter- and intra-Circuit conflicts among the Circuits which, especially in view of the volume of § 1983 cases filed in the federal courts, justify the granting of certiorari to review the merits of this issue.

If the Court does grant review, Petitioner Jones believes that the Court will find that the majority of the Circuit Courts are correct in applying the more general statutes of limitations and in rejecting the statute of limitations tailored for intentional torts. In the case at bar, for example, the panel held that former Ohio R.C. § 2305.11 [Ohio's statutes for intentional torts] (libel, slander, assault, battery, malicious prosecution, false imprisonment or malpractice) was the

applicable statute of limitations for § 1983 actions brought in Ohio.[8]

Yet in **Wilson v. Garcia**, this Court directed the lower federal courts to apply the statute "most" appropriate and that was to be the one would be broad enough to encompass "all" § 1983 claims. 471 U.S. at 775. In the text of the **Wilson** decision, this Court discussed several varieties of § 1983 actions, including: (1) discrmination in public employment on the basis of race or the

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[8]As noted in **Mulligan v. Hazard**, 777 F.2d 340, 343, n.4 (6th Cir. 1985), **cert. denied**, ___ U.S. ___, 106 S.Ct. 3902 (1986), Ohio R.C. § 2305.11 was amended to remove assault and battery actions from its scope for inclusion in new 2305.111. Under both statutes, the statute of limitations for assault and battery was one year. Because this case was decided upon R.C. § 2305.11, all references will be to that statute. The issues presented by R.C. § 2305.11 are exactly the same, however, as those presented by an examination of R.C. § 2305.111.

exercise of First Amendment rights; (2) seizure of chattels without advance notice or sufficient opportunity to be heard; (3) deliberate indifference to the serious medical needs of prisoners; (4) discharge or demotion without procedural due process; and (5) mistreatment of school children.[9] Of the five types of 1983 actions specifically mentioned in the text of the **Wilson** opinion, only one (medical malpractice) would arguably fall within the purview of § 2305.11. Thus, to adopt § 2305.11 runs contrary to the teachings of **Wilson**. The statute is far too narrow to encompass all civil

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[9] In a footnote, the **Wilson** Court also alluded to at least 16 other causes of action which have been alleged under § 1983. **Wilson v. Garcia, supra** at n.31.

Of these 16 causes of action, only the actions to restrain prosecutions would appear to fall within the narrow parameter of ORC § 2305.11.

rights claims under § 1983 and, hence, must be rejected. The only available statutes which would be broad enough to encompass these claims is the four-year residuary statute for other torts [O.R.C. § 2305.09] or the two-year statute for bodily injury [O.R.C. § 2305.10].

II.

A claim sounding in malicious prosecution for relief under 42 U.S.C. § 1983 accrues upon the granting of an unconditional grant of habeas corpus

The claims presented in the instant case all flowed from an unconstitutional conviction and subsequent cover-up of the suppression of exculpatory evidence. Thus, it is in the nature of an action for malicious prosecution. It is well established that an action for malicious prosecution accrues when the underlying actions are terminated in plaintiff's favor. The question for consideration is when, in a case such as the one at bar, the claim is terminated in the plaintiff's favor.

This appears to be an issue of first impression. Not only did counsel for the Petitioner fail to find any controlling authority upon this precise question, but none was offered by counsel representing

the Respondents below. Further, the panel opinion, while containing an elaborate discussion of the question of whether a civil rights action could be filed before the successful conclusion of related habeas corpus proceedings, does not suggest when the claim for relief actually accrued and cites no authority for its general conclusion that the claim must have accrued at some designated time more than a year before the suit was commenced (800 F.2d at 83; A25).

At the very least, a reasonable bench mark for the determination of the underlying action in Plaintiff Jones' favor would be the date the **nolle prosequi** was entered in the state Court of Common Pleas where the initial adverse judgment was entered against him.

In the case at bar, this Court may take judicial notice of the copy of the State Court's Order of October 27, 1978,

entering a **nolle prosequi** dismissing that action[10] (A72). Even under a one-year statute of limitations, the present suit should have been filed on the day it was filed: October 29, 1979.[11]

More reasonably, however, the claim could be said to have accrued only upon the issuance of the unconditional writ of habeas corpus. It should be noted that the 90 days for re-trial specified by this Court's initial conditional writ

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[10] There are three dates appearing on that document. The heading dates it October 17, 1978. The date under the judge's name is October 20, 1978. The stamp of the Clerk "Received for Filing" is dated October 27, 1978. The latter date is the significant one here because under Ohio law, orders of the Court are effective only when received and filed by the Clerk. **E.g., State v. Herder**, 65 Ohio App.2d 70, 415 N.E.2d 1000 (1979) (Syllabus 1); **In re Hopple**, 13 Ohio App.3d 54, 468 N.E.2d 129 (1983) (Syllabus 3).

[11] October 27, 1979, was a Saturday when the courts were closed and under Ohio law the time was thereby extended until Monday, October 29, 1979.

were not immutable. **E.g., Gardner v. Forister**, 472 F. Supp. 1 (W.D. N.C. 1979) (absolute writ denied even though defendant not re-tried within 60 days as required by the conditional writ); **Bruce v. Estelle**, 707 F.2d 155 (5th Cir. 1983), **cert. denied**, 464 U.S. 963 (1983) (after initially granting 90 days in which petitioner was to be re-tried, the District Court granted an additional 90 days). The practice in many Federal District Courts is to simply order re-trial within a "reasonable" time.

The state prosecutors always had the option of going to the District Court and seeking relief from judgment until the Court declared the writ unconditional. Though counsel for Mr. Jones would have opposed such an action, it is not inconceivable that if the State were to demonstrate good cause (such as the inability to locate a key witness whose

location was subsequently discovered), the Court could have granted such a motion.

Thus, "finality" did not occur in this case until the Court's order of February 12, 1979, making the writ unconditional or 30 days thereafter when the State's right to appeal that order expired. It is upon one of these dates that the claim for relief accrued and the statute of limitations began to run.

III.

This case presents important questions concerning the proper determination of when a state tolling provision is inconsistent with federal law and policy, and thus inapplicable in a section 1983 case sounding in malicious prosecution, and the determination of an appropriate federal tolling rule in this type of case.

A state limitation period or related tolling provision is inconsistent with federal law within the meaning of 42 U.S.C. § 1988, and thus inapplicable in a section 1983 case, when it significantly impairs or frustrates the policies of deterring unconstitutional abuse of state power and affording compensation when it occurs. **Board of Regents v. Tomanio**, 446 U.S. 478, 487-488 (1980); **Robertson v. Wegmann**, 436 U.S. 584, 590-591 (1978); **Occidental Life Insurance Co. v. EEOC**, 432 U.S. 355, 367 (1977). In making that determination, consideration must be given to whether the state rule, when coupled with the "practicalities of

litigation," insures "the full availability of a judicial forum" for the § 1983 claim. **Burnett v. Gratton**, 468 U.S. 42, 50 (1984).

Consideration must also be given to related federal policies such as federalism, uniformity and certainty. **Board of Regents v. Tomanio, supra**, at 489-491. **See also Wilson v. Garcia**, 471 U.S. 261 (1985). The same considerations apply when state law is displaced and a federal equitable rule is fashioned, since the objective remains that of insuring "that neutral rules of decision will be available to enforce" § 1983 actions. **Wilson v. Garcia, supra** at 269. The decision below conflicts with the decisions of this Court by affording inadequate attention to these relevant considerations.

In holding that Petitioner's § 1983 suit, filed on October 29, 1979, was

time-barred, the court below gave two reasons. First, assuming without deciding that the Ohio tolling statute applied, the suit was untimely because, as construed by the court, the tolling statute suspended the one-year limitation period only until Petitioner was released on bail in the habeas corpus proceeding on June 24, 1977 (A17). Second, assuming without deciding that a federal equitable rule applied, the suit was still untimely since the court's contemplated rule would have suspended the state limitation period only until the State had been denied certiorari in the habeas action or reconsideration of that Order on October 2 and October 16, 1978, respectively (A24-25).

In suggesting that the Ohio tolling statute was applicable to bar Petitioner's claim, the court failed to properly consider the practicalities of litigation presented in the context of

this type of case. In addition to the usual burdens which led this Court to reject a six-month state limitation period in **Burnett v. Gratton, supra**, and which have led one court to conclude that any state limitation period less than two years is inconsistent with federal policy, **Pauk v. Board of Trustees of City University of New York**, 654 F.2d 856, 862 (2nd Cir. 1981), **cert. denied**, 455 U.S. 1000 (1982); **Lee v. Coughlin**, 643 F. Supp. 546, 549 (W.D. N.Y. 1986), Petitioner faced others. At the time of his release on bail, he had been imprisoned for nearly six years, and his attention and resources were understandably directed at opposing the State's efforts to reimprison him, not just by appealing the award of the writ and the threat of reprosecution, but as well by a separate appeal of the bail determination.

Moreover, had Petitioner filed his

§ 1983 suit within one year of his release on bail, and thus prior to this Court's denial of the State's petition for certiorari on October 2, 1978, he faced the prospect of having his claims dismissed on grounds of res judicata. **Allen v. McCurry**, 449 U.S. 90 (1980); **Migra v. Warren City School District Board of Education**, 465 U.S. 75 (1984). If that did not occur, he would likely have encountered an exercise of absention.

Indeed, many courts, including the court below, have by now relied on the decisions in **Preiser v. Rodriquez**, 411 U.S. 475 (1973); **Younger v. Harris**, 401 U.S. 37 (1971); and **dicta** in **Tower v. Glover**, 467 U.S. 914, 923 (1984), to require absention, pending resort to federal habeas actions and exhaustion of state remedies, in § 1983 damage cases involving claims that question the

legality of a state conviction, pending prosecution or custodial restraint. **See Guerro v. Mulhearn**, 498 F.2d 1249 (1st Cir. 1974); **Alexander v. Ware**, 714 F.2d 416, 419 (5th Cir. 1983); **Hadley v. Werner**, 753 F.2d 514, 516 (6th Cir. 1985); **Hanson v. Heckel**, 791 F.2d 93 (7th Cir. 1986); **Ybarra v. Reno Thunderbird Mobile Home Village**, 723 F.2d 675, 682 (9th Cir. 1984); **Parkhurst v. State of Wyoming**, 641 F.2d 775, 777 (10th Cir. 1981). **But see Suggs v. Brannon**, 804 F.2d 274 (4th Cir. 1986) (taking opposite approach in part because of concern that deferral might cause claims to be time-barred).

In effect, application of the Ohio tolling provision in this case forced resort to federal court at a time when it was exceedingly difficult for Petitioner to do so and when it was doubtful that a federal forum was available. As such the

suggestion by the court below that this provision could be properly applied to determine the timeliness of Petitioner's § 1983 action presents a serious question of conflict in principle with this court's decisions. The question is made more serious by the fact that among the class of confined § 1983 litigants the rule could only work to the prejudice of one whose habeas petition was so meritorious that it permitted the unusual grant of release on bail.

By ruling that Petitioner's § 1983 action was untimely, even if a federal equitable tolling principle applied, the court below again failed to properly consider the practicalities of litigation in this type of case, and federal policy that may have limited the availability of a federal forum until such time as the State formally decided against retrial or the writ of habeas corpus was made uncon-

ditional by order of the district court. Until either of those events occurred, Petitioner faced the very real prospect of reprosecution on charges carrying a penalty of life imprisonment.

Indeed, until the latter event occurred, there remained some threat of prosecution since the State's filing of a **nolle prosequi** on October 27, 1979, did not preclude subsequent prosecution under state law and the extant order awarding Petitioner a conditional writ of habeas corpus was merely executory. **See Gardner v. Forister**, 472 F. Supp. 1 (W.D. N.C. 1979) (absolute writ denied even though petitioner not retried within 60 days as required by conditional writ), **Bruce v. Estelle**, 707 F.2d 155 (5th Cir.), **cert. denied**, 104 S.Ct. 400 (1983) (after initially granting 90 days in which petitioner was to be retried district court granted an additional 90 days).

Moreover, under the rule suggested by the court below--namely, tolling of the one-year period only until denial of the state's petition for certiorari in the habeas action--§ 1983 plaintiffs like Petitioner would face the risk of being subjected to retaliatory reprosecution for having filed suit, thus exacerbating the injuries already suffered.

In addition, until the State formally decided against reprosecution, there was in effect a pending state criminal prosecution calling into play "the fundamental policy against federal interference with state criminal prosecutions." **Younger v. Harris, supra**, at 46. Although this Court has not decided whether a federal court should abstain from deciding a § 1983 damage suit involving claims that question the legality of a pending prosecution, many courts, as noted above, have. Moreover,

although abstention would be inappropriate if the State prosecution did not afford an opportunity to raise the § 1983 claims, it might be expected that in many situations where, as here, the habeas court has declined to rule on all claims presented in a petition, it will be the case that certain of the § 1983 claims, never before considered, could be the basis for a motion to dismiss the reprosecuted charges.

In any event, this case presents an important question concerning the federal rule of tolling to be fashioned in cases of this sort. Had the court below accepted the rule urged upon it by Petitioner, the § 1983 action would have been timely brought even under the one-year limitation period.

IV.

Conclusion

Each of the three questions presented for review merit the allowance of the writ of certiorari to the Sixth Circuit. The question concerning the application of **Wilson** to determine the proper statute of limitations involves intra- and inter-Circuit conflicts which only this Court can resolve. The related questions of the time of accrual of § 1983 actions and the application of the doctrine of equitable tolling present questions of national importance. Consequently, Petitioner Jones

respectfully requests that review be granted.

Respectfully submitted,

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